

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the )  
TRUSTEE FOR NATURAL RESOURCES )  
FOR THE STATE OF OKLAHOMA, )  
Plaintiff, )  
vs. ) 4:05-CV-00329-TCK-SAJ  
TYSON FOODS, INC., et al, )  
Defendants. )

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VOLUME I OF THE VIDEOTAPED  
30(b)(6) DEPOSITION OF TIM ALSUP, produced as a  
witness on behalf of the Plaintiff in the above  
styled and numbered cause, taken on the 24th day of  
June, 2008, in the City of Tulsa, County of Tulsa,  
State of Oklahoma, before me, Lisa A. Steinmeyer, a  
Certified Shorthand Reporter, duly certified under  
and by virtue of the laws of the State of Oklahoma.

**A P P E A R A N C E S**

FOR THE PLAINTIFFS: Mr. Richard Garren  
Mr. Patrick Green  
Attorneys at Law  
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Tulsa, OK 74119  
-and-  
Mr. Louis Bullock  
Attorney at Law  
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FOR CARGILL: Mr. Todd Walker  
Attorney at Law  
1700 Lincoln Street  
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-and-  
Ms. Theresa Hill  
Attorney at law  
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Tulsa, OK 74103

FOR PETERSON FARMS: Mr. Philip Hixon  
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FOR GEORGE'S: Mr. Paul Thompson  
Attorney at Law  
221 North College  
Fayetteville, AR 72701  
(Via Phone)

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FOR TYSON:

Mr. Michael Bond  
Attorney at Law  
Three Sisters  
214 West Dickson Street  
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ALSO PRESENT:

Ms. Rachel Lee  
Legal Clerk

I N D E X

W I T N E S S

P A G E

TIM ALSUP, 30(b)(6), Volume I

Direct Examination by Mr. Garren

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Signature Page

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Reporter's Certificate

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1 (Whereupon, the deposition  
2 began at 9:05 a.m.)

3 VIDEOGRAPHER: We are now on the Record for  
4 the deposition of Mr. Tim Alsup. Today is June 24,  
5 2008. The time is 9:04 a.m. Would counsel please 09:05AM  
6 identifies themselves for the Record?

7 MR. GARREN: Richard Garren for the State  
8 of Oklahoma with Pat Green from my office.

9 MR. BULLOCK: Louis Bullock for the State  
10 of Oklahoma. 09:05AM

11 MR. WALKER: Todd Walker for the Cargill  
12 defendants and with me is Theresa Hill.

13 MR. HIXON: Philip Hixon for Peterson  
14 Farms, Inc.

15 MR. BOND: Michael Bond for Tyson Foods, 09:05AM  
16 Tyson Chicken, Tyson Poultry and Cobb-Vantress.

17 MR. THOMPSON: Paul Thompson on behalf of  
18 the George's defendants.

19 VIDEOGRAPHER: Thank you. The witness may  
20 be sworn in. 09:05AM

21 MR. GARREN: Again, Paul, we're going to  
22 invoke the Rule of Sequestration. If you have  
23 anybody enter the room with you, please announce so  
24 we can make the Record.

25 MR. THOMPSON: No problem. 09:06AM

1 MR. GARREN: And, likewise, if you leave,  
2 so we know who is gone or who is here.

3 TIM ALSUP  
4 having first been duly sworn to testify the truth,  
5 the whole truth and nothing but the truth, testified  
6 as follows:

7 DIRECT EXAMINATION

8 BY MR. GARREN:

9 Q State your full name for the court again,  
10 please. 09:06AM

11 A Tim Alsup.

12 Q Okay. We met previously on June 12, 2008 in  
13 another deposition; is that correct?

14 A Yes, sir.

15 Q All right. You understand you are under oath 09:06AM  
16 here today, and the rules generally that we used  
17 last time will apply this time, that I'll ask the  
18 questions and ask you to verbally give your  
19 responses to those questions. All right?

20 A Yes, sir. 09:06AM

21 Q All right, and try and avoid uh-huh and huh-uh  
22 so we have a yes or no when it's applicable.

23 A Okay.

24 Q Let's establish for the Record who your  
25 current employer is. 09:06AM

1 operating poultry growing operations under contract  
2 with Cargill and the management, supervision,  
3 inspection and monitoring by Cargill of persons,  
4 entities owning or operating poultry growing  
5 operations under contract with Cargill. Okay? 09:25AM

6 **A** Yes, sir.

7 **Q** That's the subject I want to try to talk about  
8 and we'll talk about several things in that area.

9 **A** Okay.

10 **Q** And you're designated to speak on those 09:25AM  
11 topics; correct?

12 **A** Yes, sir.

13 **Q** Likewise, the corresponding topics would be 3  
14 and 4 for Cargill Turkey Production, LLC, and I'll  
15 bring those up if we talk about those. All right? 09:25AM

16 **A** Okay.

17 **Q** Right now we're talking about Cargill, Inc.

18 **A** Okay.

19 **Q** Am I correct in understanding that Cargill,  
20 Inc., has a right to not deliver birds to a grower 09:26AM  
21 in its discretion?

22 **A** If we have a contract with a contractor, we  
23 have to -- we have to fulfill that contract.

24 **Q** Are there times where the company may exercise  
25 in its discretion a decision not to deliver birds to 09:26AM

1 a contract grower?

2 MR. WALKER: Object to the form.

3 A Yes, sir.

4 Q Describe, if you would, what might occur that  
5 would cause Cargill, Inc., not to deliver birds to a 09:26AM  
6 contract grower.

7 A If a flock supervisor sees a litter pile  
8 that's stacked outside that's improperly covered, we  
9 can withhold placement. If there are animal welfare  
10 issues we see on the farm that -- like the birds 09:27AM  
11 aren't getting fed because the equipment doesn't  
12 work, we can withhold a placement until that's  
13 fixed, things like that.

14 Q Are there any other things that you can think  
15 of that would be -- let me ask it this way: Can you 09:27AM  
16 give me any other example of a different reason for  
17 which birds have in fact been withheld by Cargill?

18 A No, sir, not as long as we have a contract  
19 with them, no, sir.

20 Q Can you tell me, sir, when, if any, and who it 09:27AM  
21 was that birds are withheld because of a litter pile  
22 being improperly stored on the property?

23 A To my knowledge when I've been involved and  
24 I've known about it when it's been addressed, it has  
25 been fixed, and to my knowledge that has never 09:28AM



1 happened. We've never had to withhold a placement.

2 Q All right. So do I understand this then:

3 It's correct that Cargill has not withheld birds

4 because of a litter pile or a poultry waste pile

5 sitting outside of -- uncovered?

09:28AM

6 MR. WALKER: Object to the form.

7 A No, sir, because it has been corrected.

8 It's -- when it's been addressed, the contract

9 producers have fixed the issue.

10 Q So you would agree with me then, there has

09:28AM

11 been not an instance where birds have in fact been

12 withheld because of litter piles or poultry piles

13 sitting outside uncovered; correct?

14 A Yes, sir.

15 Q All right. How many instances can you tell me

09:28AM

16 have occurred where litter piles were discovered and

17 there was at least a threat of withholding birds

18 from a grower?

19 A Two I know of for sure and -- no. Three,

20 three I know for sure.

09:29AM

21 Q What time frame are you talking about that

22 this occurred?

23 A Late '90 -- in the late '90's and early 2000,

24 2001, 2002.

25 Q Were any of these locations, the three you

09:29AM

1 the subjects, they would be expected to inspect on  
2 and report to the grower about those matters;  
3 correct?

4 **A** Yes.

5 **Q** All right, and then skipping back to the very 09:47AM  
6 first page of this document in the exhibit, this is  
7 a different report but it's dated after the LLC.  
8 The report just changed and generally the same  
9 subjects are there but in a little bit more detail;  
10 would you agree? 09:47AM

11 **A** Yes, sir.

12 **Q** All right. This report at Bates number 10856  
13 would likewise be filled out at the inspection and  
14 left with the grower; correct?

15 **A** Yes, sir. 09:48AM

16 **Q** Now, is it Cargill's intention that the  
17 growers heed the advice and follow the instructions  
18 of its flock supervisor?

19 MR. WALKER: Object to the form.

20 **A** Where it comes to bird health, yes, sir. For 09:48AM  
21 what matters on bird health, yes, sir, we expect the  
22 growers to heed that advice. Where it is relating  
23 to performance, that is a recommendation, and the  
24 growers, I mean if they -- we're there to try to  
25 give them advice on how to or the flock supervisor 09:48AM

1 is there to give them advice to help what we think  
2 would help their flocks perform better, but the  
3 growers are under no requirement to do that.

4 Q But growers understand that they are evaluated  
5 on their performance at each flock; correct? 09:49AM

6 A Their flock performance is evaluated.

7 Q And so to the extent they've been given  
8 instructions that would appear to be helping them in  
9 that performance, they most likely would listen and  
10 follow them, would they not? 09:49AM

11 MR. WALKER: Object to the form.

12 A Not necessarily.

13 Q Let's talk a little bit about what you  
14 referred to as bird health. Tell me what are the  
15 subjects or items that fall within your definition 09:49AM  
16 or category of bird health that flock supervisors  
17 check on.

18 A Okay. If they come into a farm and there's no  
19 water at all in the barn, the bird is going to get  
20 dehydrated, cause lower immune systems, they can get 09:50AM  
21 sick, and if it -- obviously if it goes on long  
22 enough, they will dehydrate and die. That would be  
23 a bird health. If they come in and there is water  
24 and the birds can reach it but the supervisor thinks  
25 that if they raised it another inch or two, it would 09:50AM